

## Message Text

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45

ACTION EB-11

INFO OCT-01 EUR-25 IO-12 ADP-00 INRE-00 AGR-20 CEA-02

CIAE-00 COME-00 DODE-00 FRB-02 H-02 INR-10 INT-08

L-03 LAB-06 NSAE-00 NSC-10 PA-03 RSC-01 AID-20

CIEP-02 SS-14 STR-08 TAR-02 TRSE-00 USIA-12 PRS-01

SAL-01 OMB-01 RSR-01 /178 W  
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P R 021117 Z APR 73

FM AMEMBASSY ROME

TO SECSTATE WASHDC PRIORITY 8080

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY THE HAGUE

USMISSION GENEVA

USMISSION EC BRUSSELS

USMISSION OECD PARIS

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E. O. 11652: N/A

TAGS: ETRD, GATT, IT

SUBJECT: GATT ARTICLE XXIII:1 CONSULTATION ON ITALIAN LAW 639 OF  
1964

DEPT PASS STR

1. SUMMARY. GATT ARTICLE XXIII:1 CONSULTATION WITH ITALY CONCLUDED  
MARCH 29 WITHOUT AGREEMENT ON GATT ASPECTS LAW 639 REBATES NOR  
WITH  
ANY INDICATION THAT GOI WILL MODIFY LAW 639 IN MANNER SOUGHT BY  
US. END SUMMARY.  
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2. USDEL ( KELLY) BASED PRESENTATION ON EMBASSY NOTE VERBALE OF JANUARY 12, 1973 ( STATE 232066) AND SAID THAT TAX REBATES UNDER ITALIAN LAW 639 DAMAGED US EXPORTS AND CONTRAVENED GATT BECAUSE REBATES WERE FOR TAXES NOT BORNE BY PRODUCT ( TAXES OCCULTES) AND REBATES CALCULATED ON BASIS OF WEIGHT, WHICH NOT TRUE REFLECTION OF TAXES BORNE BY PROJECT. NOTED THAT US MAKING SPECIAL EFFORT RESOLVE LONG- STANDING TRADE DISPUTES BEFORE MULTILATERAL NEGOTIATIONS. ARTICLE XXIII:1 ONLY PRACTICAL RECOURSE AVAILABLE UNDER GATT IN CASES OF EXPORT SUBSIDIES TO THIRD MARKETS. IN US VIEW PROPOSED GOI AMENDMENTS TO ITALIAN LAW 639 ( ROME A-58, JANUARY 26, 1973) DO NOT SOLVE PROBLEM VIS- A- VIS US AND OTHER NON EC COUNTRIES. USDEL NOTED FORTHCOMING APRIL 10-13 GATT WG CONSIDERATION OF SUBSIDIES AND COUNTERVAILING DUTIES. STRESSED WE ONLY SEEKING ATTAIN GATT RIGHTS TO WHICH ENTITLED.

3. ITALIAN DEL ARGUED THAT US HAD NEITHER FURNISHED PROOF OF TRADE DAMAGE NOR MADE CONVINCING CASE THAT EXPORT SUBSIDY PROVISIONS OF GATT REQUIRED CHANGE IN PRESENT REBATE PRACTICES. MAJOR PART GOI PRESENTATION WAS LENGTHY LEGAL MEMORANDUM BY PROF. BERNINI OF BOLOGNA UNIVERSITY WHO CONSIDERS HIMSELF EXPERT ON US COUNTERVAILING DUTY LAW AND GATT. MEMORANDUM APPEARED DESIGNED ELICIT DETAILED US RESPONSE AND EXTEND CONSULTATIONS OVER PROLONGED PERIOD. AT REPEATED REQUEST ITALIAN DEL, US AGREED TRY PROVIDE COMMENTS ON MEMORANDUM BUT MADE NO COMMITMENT RE NATURE OF REPLY OR TIMING. US DEL STRESSED THAT A LATER REPLY TO MEMORANDUM WOULD NOT CHANGE FACT THAT ARTICLE XXIII:1 CONSULTATION CONCLUDED AT THIS MEETING.

4. IN RESPONSE US QUESTION RE POSSIBLE EXTENSION TO THEIR COUNTRIES OF REBATE REDUCTIONS PROPOSED IN DRAFT BILL RECENTLY SUBMITTED TO PARLIAMENT ( ROME A-58, JANUARY 26, 1973), ITALIANS RESPONDED THAT EC TAX HARMONIZATION AND OBLIGATIONS EC MEMBERSHIP FORCED THESE PROPOSED AMENDMENTS. GOI CONTENDED THAT GATT RULES COULD BE INTERPRETED DIFFERENTLY THAN EC OBLIGATIONS.

5. ITALIAN DEL PRESSED US DEL FOR DISCUSSION WHETHER APPLICATION US COUNTERVAILING DUTIES TO PRODUCTS BENEFITING FROM LAW 639 REBATES WAS IN VIOLATION OF GATT AND/ OR US LAW. THEY NOTED MARCH 28 PUBLICATION OF FEDERAL REGISTER NOTICE RE REFRIGERATORS. GOI OFFICIALS RECALLED THAT IN GOOD FAITH AND IN RESPONSE SPECIFIC REQUEST MEMORANDUM HAD BEEN SUBMITTED TO TREASURY IN OCTOBER 1972. THEY CONSIDERED THAT LETTER RECEIVED FROM TREASURY BY ITALIAN EMBASSY

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WASHINGTON MARCH 20 REQUESTING CLARIFICATION OF SEVERAL POINTS WAS NOT REALLY SUBSTANTIVE RESPONSE TO OCTOBER MEMO. GOI HOPED FOR EARLY ANSWER TO ARGUMENTS PRESENTED THEREIN. US DEL EMPHASIZED FROM OUTSET THAT ARTICLE XXIII:1 CONSULTATION DID NOT RELATE TO US COUNTERVAILING ACTIONS NOR WERE THEY A CONTINUATION OF ONGOING WASHINGTON CONVERSATIONS BETWEEN ITALIAN EMBASSY AND TREASURY.

6. ITALIAN OPENING STATEMENT AND DETAILED BERNINI MEMORANDUM WILL BE FORWARDED BY AIRGRAM ALONG WITH FULLER ACCOUNT OF DISCUSSION.

7. COMMENT. WE BELIEVE ARTICLE XXIII:1 CONSULTATION WENT AS WELL AS COULD BE EXPECTED. WHILE ITALIAN REPS WERE NOT OF A RANK TO SHOW FLEXIBILITY OR PROMISE LEGISLATIVE AMENDMENTS, WE ARE CONFIDENT THEY WILL PASS ON US DEL ARGUMENTS TO THEIR SUPERIORS. EMBASSY WILL ALSO SEEK FOLLOW-UP TO DETERMINE IF ANY EARLY CHANGE IN APPLICATION LAW 639 TO THIRD COUNTRIES IS POSSIBLE. US DEL AND EMBASSY, HOWEVER, DOUBT WHETHER ANY SUCH CHANGE IS LIKELY IN FORESEEABLE FUTURE. WHILE REFRIGERATOR CASE NOT DISCUSSED DIRECTLY, WE BELIEVE MARCH 27 ANNOUNCEMENT AND PUBLICITY IN ITALIAN PRESS WAS VERY MUCH ON MINDS OF ITALIAN DEL AND HAD SOME EFFECT ON ATMOSPHERE IN WHICH CONSULTATION CONDUCTED. VOLPE

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